

JAN DRAGO'S RECOMMENDATIONS

OVERVIEW BY TOPIC OF PROPOSED AMENDMENTS TO ANIMAL CONTROL CODE

	STATEMENT OF PROBLEM	PANEL RECOMMENDED SOLUTION	DRAGO RECOMMENDATION
1.	Lack of due process.	Recommendation: Create a new civil citation for potentially dangerous dog notices, with right of appeal.	I support this recommendation. And I will accept City Attorney Tom Carr's suggestion to create a new civil infraction, replacing the current "Notice of Potentially Dangerous Animal". This new civil citation that would encompass the behaviors outlined in his attached memo (p. 8, Item 6G). These behaviors are more definitive than those described in the current definition of potentially dangerous.
2.	Definitions of "potentially dangerous" and "dangerous" animals are vague and overly broad.	Recommendation: Changing the definitions of "potentially dangerous animal" and "dangerous animal" to reflect an escalating 5-tier scale, based on severity of behavior.	I do not support this recommendation. The elimination of the term and definition for potentially dangerous obviates the need for such a scale. City Attorney Carr's proposed new language eliminates vagueness.
3.	The City of Seattle does not allow "dangerous dogs" within the City limits.	Recommendation a: Allow Level 4 "dangerous" dogs within the City if all state and local conditions are met. Recommendation b: Allow the owner to move the dog to another jurisdiction that does allow dangerous dogs, after proof has been presented to Seattle Animal Control that all conditions have been met. If a Level 4 dog is sent to a sanctuary, the owner should be allowed to visit the dog where it is confined, if he/she so chooses.	Recommendation a: I do not support this recommendation. The City of Seattle has never allowed dangerous or vicious (previous legal term used) dogs to remain within the City limits because of public safety concerns for Seattle residents. I agree that public safety needs must be the overriding consideration here. Recommendation b: I support this recommendation. I am willing to allow the owner to move the dog to another jurisdiction that does allow dangerous dogs, after proof has been presented to Seattle Animal Control and to the animal control authority in the new location that all conditions have been met and the new animal control authority agrees to the move of the dog into that jurisdiction. And I will support allowing the owner the visit the dog in the sanctuary if that sanctuary so allows.
4.	Too much power is given to the Director of Seattle Animal Control to make administrative determinations of "dangerous dogs" and to thereby order their destruction.	Recommendation: a. Rescind SMC 9.25.035, Director's right to declare an animal to be dangerous. b. Rescind SMC 9.25.036, Appeal of Director's determination. c. Rescind SMC 9.25.037, Authority of Hearing Examiner (re: appeal) d. Add SMC 9.25.038, to provide for mediation and/or a hearing when a declaration of potentially dangerous or dangerous is made by Director.	I do not support this recommendation. It would eliminate an existing authority needed to manage Animal Control, eliminate an existing right of appeal to the Hearing Examiner, and establish a new, more cumbersome system that would have a significant budget impact. Under existing code, dog owners have the right to appeal to the City Hearing Examiner any administrative determination on dangerous dogs made by the Animal Control Manager, and to appeal to the Superior Court after that decision, if so desired.
5.	Current code makes no distinction between "warranted" and "unwarranted" aggressive behavior.	Recommendation: Approve definition of "provocation" as defined in the attached document of recommended code language changes.	In lieu of supporting this recommendation, which would require the City to prove the dog's state of mind, I will instead support City Attorney Carr's recommendation defining the term "unprovoked" as seen on page 5, Item 4 a (A). This definition addresses physical abuse of or injury to the animal at the time of the incident, or the animal's defense of itself, its owner or an immediate family member, etc.
6.	No declassification of Potentially Dangerous or Dangerous designation.	Recommendation: a. Allow owner to opportunity to seek rehabilitative training for dog, with the possibility that the designation of potentially dangerous or dangerous could either be removed or moved back one level if there are no repeat offenses after a given lapse of time.	Since there will be no "potentially dangerous" warnings and no 5-tier scale of offenses, this recommendation is moot. I would highly recommend to any dog owner who received a citation because his/her dog engaged in certain egregious behaviors to seek such rehabilitative training to avoid the possibility of a repeat offense.

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7.	Anonymous complaints resulting in potentially dangerous warnings are unfair.	Recommendation: No notice or violation shall be issued unless the complaining party files a sworn affidavit and dog owner is afforded an opportunity to rebut the complaint.	This issue becomes moot with the creation of the new civil citation. No citation could be issued without a signed open statement by the complainant.
8.	Cat trapping without notification.	Recommendation: SAC should not issue cat traps without requiring posting of notices throughout the affected neighborhood.	I am holding this item until a later date.
9.	Automatic euthanization or exile of dogs determined to be dangerous.	Recommendation: Mandatory euthanization shall be restricted to dogs that have severely mauled or killed a human.	I do support the restriction of mandatory euthanization to those dogs that have severely mauled or killed a human. But I support allowing the SAC Director the option to euthanize other dangerous dogs when the owner has been convicted of criminal behavior for having an animal that has seriously injured a human or killed one or more domestic animals.
10.	Sale or auction of dogs/cats at fundraising events results in impulse buys that may not be healthy for the animal.	Recommendation: The City should ban the auction of live animals at such functions.	I do not support this recommendation. I have not been persuaded that this is a serious problem within this city.
11.	Proposals to ban dogs by breed (e.g., pit bulls, Staffordshire terriers, etc.).	Recommendation: Add new section to code as follows: "The breed of a dog shall not be evidence of whether an animal is potentially dangerous or dangerous."	I support this recommendation adding this language to the code. I am opposed to breed-specific banning.
12.	Feral cats are included in definition of "exotic animals along with venomous snakes, lions, elephants, etc.	Recommendation: Remove "feral" animals from the definition of "exotics".	I support this recommendation, as does the Dept. of Executive Administration.
13.	Expedited Procedure Regarding Detention, Limits on Detention.	Recommendation: The City shall provide an expedited procedure allowing the owner to challenge the necessity for continued detention. A hearing shall be available within three court days of notice to Seattle Animal Control and petition to the Seattle Municipal Court, as provided in a new section to SMC 9.25.	I deferred to the Law Dept. on this issue; Law does not recommend. This recommendation is too restrictive.

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PANEL'S PROPOSED AMENDMENTS TO SEATTLE ANIMAL CONTROL CODE

#	SMC CITATION	TEXT	DRAGO RECOMMENDATION
1.	SMC 9.25.020.G Definitions – A-E	G."Dangerous animal" means any animal that according to the records of the appropriate authority, (1) has inflicted severe injury on a human being without provocation on public or private property, (2) has killed a domestic animal without provocation while off the owner's property, or (3) or (2) has been previously found to be Level 3 potentially dangerous, whose owner has received notice of such, which animal again aggressively bites, attacks, or endangers the safety of humans or domestic animals.	I do not support this recommendation. Moving the killing of a domestic animal from dangerous to potentially dangerous would put the City out of compliance with state law. Do owners of small dogs and cats want owners of larger dogs to have a “free kill?”
2.	SMC 9.25.021.M Definitions – F - J	M ... "Exotic animal" also includes all venomous reptiles and amphibians, (regardless of whether the venom glands have been removed), and all snakes that are eight (8) feet or more in length. An animal that is normally domesticated, but that is determined to be wild or feral, shall be considered an exotic animal.	I support this recommendation.
3.	SMC 9.25.022 Definitions K – O	A. "Less than severe injury" or "bodily injury" or "physical injury" means significant: (1.) Physical pain and demonstrable injury; or (2.) An impairment of physical condition.	I do not support this recommendation. I agree with Law that approving this language would be a statement that some bites are okay. It defines “less than severe injury” as a somewhat severe injury in itself.
4.	SMC 9.25.023.A Definitions P – T	A."Permit" means human conduct in relation to an owned animal, which is intentional, deliberate, careless, inadvertent or negligent.	At the advice of Law, I do not support this recommendation. –“Under the current ordinance, the owner would have permitted an action if the owner did not prevent it. The question .. is whether an owner should have an affirmative duty to control an animal or merely be responsible for his or her negligence.”
5.	SMC 9.25.023.C	C. "Potentially dangerous animal" means any animal that when unprovoked: (1) inflicts bites on a human resulting in less than severe injury, either on public or private property, or inflicts bites on a domestic animal either on public or private property, but off the property of the owner or keeper of the animal; or (2) when unprovoked on two separate occasions within the prior thirty-six month period, chases or approaches a person on public property or on private propertyetc. The breed of a dog shall not be evidence of whether an animal is potentially dangerous or dangerous.	This will be a moot issue when potentially dangerous definition is removed from code. I do support that the breed of a dog shall not be evidence of whether an animal is dangerous.
6.	SMC 9.25.023.D	D. "Provocation" shall include any of the following: (1) any action done while the animal was protecting or defending a person or pack member within the immediate vicinity of the animal from an apparent attack or assault, except where the person in control of the animal was engaged in illegal activity at the time of the incident; (2) committing a crime or offense upon the property of the owner, or custodian, of the animal; (3) teasing, tormenting, abusing or assaulting the animal, at the time of the incident, or at any time prior; (4) attack or menacing by a domestic animal, or any situation where an animal was on the property of the owner of the animal; (5) any action that leads to a response when the animal was responding to pain or injury, or protecting itself, its kennels or its offspring, or family member; (6) intentionally disturbing the animal's natural functions such as sleeping or eating.	At the advice of Law, I do not support this definition. I will instead support the City Attorney’s recommendation regarding adding and defining the term “unprovoked” (see #5 on Overview).

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7.	SMC 9.25.023 E.	<p>D. E. "Secure animal shelter" means an animal shelter that agrees to accept an animal and that agrees to the following conditions:</p> <ol style="list-style-type: none"> 1. Not to release the animal from the shelter for the rest of the animal's natural life; 2. Not to allow the animal to come into contact with the general public for the rest of the animal's natural life; 3. Not to allow the former owner to have contact with the animal; 4. 3. To indemnify and hold the City harmless from any and all future liability including any and all claims, demands, damages, 5. To notify the City if the shelter goes out of business or can no longer keep the animal and to abide by the City's disposition instructions. 	I support this recommendation.
8.	SMC 9.25.030.A.4 Authority of the Director	<p>4. Direct immediate humane disposal of:</p> <p>(a) any exotic animal when alternatives, such as placing the animal in a zoo or outside of the City, have been exhausted.</p> <p>(b) any animal surrendered to the City for humane disposal,</p> <p>(c) any animal determined by the Seattle Municipal Court or any other court of law to be a nuisance, (e) any animal involved in a court proceeding in which the owner pled guilty or was found to be guilty of owning a nuisance or dangerous animal or in which the owner pled guilty or was found to be guilty of negligent control of an animal;</p> <p>(d) (e) (c) any animal unclaimed after the expiration of a holding period,</p> <p>(f) any animal determined by the Director to be dangerous pursuant to SMC Section 9.25.035;</p>	<p>I support recommendation (a).</p> <p>I do not support the deletions proposed.</p>
09.	SMC 9.25.030 A.13	<p>13. Appoint persons experienced in the humane trapping of animals to set and bait a trap or use other devices that do not physically harm an animal trapped, when, in the judgment of the Director, such action will protect the public peace, health, safety and welfare and issue live animal trapping permits as authorized by the Director of Finance by rule. <u>No trap shall be authorized to capture cats, dogs or any other domestic animal without the applicant first identifying the trap location.....</u></p>	I will hold this recommendation until a later date.
10.	SMC 9.25.030 A.17	<p>17. Detain an animal that is the subject of any violation of law <u>after a judge, justice, or hearing panel subject to judicial review determines that there is probable cause to believe the animal is a "dangerous animal",</u> or whose owner is accused of violating any law relating to that animal, and collect from the owner all costs of detainment, care, feeding, and disposition <u>subject to paragraph 12, above.</u></p>	I do not support this recommendation.
11.	SMC 9.25.035 Declaration that an animal is dangerous – Disposition – Right to meeting	<p>SMC 9.25.035 Declaration that an animal is dangerous – Disposition – Right to meeting:</p> <p>A. The Director, upon the petition of any person, or at his or her own discretion, may conduct an investigation, and if the findings of the investigation so indicate, he or she may declare an animal to be dangerous. If a domestic animal is found to be dangerous, the Director shall enter an order so stating and shall direct either: (1) humane disposal of the animal; or (2) that the animal be sent at the owner's expense to a secure animal shelter. The owner is responsible for paying all fees owed to the City for the care of the animal.....etc.</p>	I do not support this recommendation. See #4 under Overview.

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12.	SMC 9.25.036 Appeal of Director's Determination - Appeal.	SMC 9.25.036 Appeal of Director's determination. Appeal. A. Availability of Appeal. An owner may appeal a determination of the Director declaring an animal to be dangerous or directing the disposition of an animal by filing a notice of appeal and written request for a hearing, with the Hearing Examiner by five (5:00) p.m. on the tenth calendar day after the date of delivery of the Director's order. A notice that an animal is to be humanely disposed of that is based either on a conviction of the animal's owner of possessing a dangerous animal or on a conviction of the animal's owner of negligent control of an animal may not be appealed under this section....etc.	I do not support this recommendation.
13.	SMC 9.25.037 Authority of Hearing Examiner	SMC 9.25.037 Authority of Hearing Examiner. A. The Hearing Examiner shall conduct the review of an appeal in an expedited manner and shall make a decision thereon. The procedures of Sections 3.02.090 and 3.02.100 of this code shall apply, except that the intervals for action shall be compressed so that, unless both the owner and the Director consent, the time elapsed between the date of the notice of appeal and the Hearing Examiner's determination shall not exceed thirty (30) days....etc.	I do not support this recommendation.
14.	SMC 9.25.038 Declaration that an Animal is Dangerous or Potentially Dangerous	<u>SMC 9.25.038 Declaration that an Animal is Dangerous or Potentially Dangerous</u> <u>A. (1) If the Director has investigated and determined that there exists probable cause to believe that an animal is potentially dangerous or dangerous as defined by this ordinance, a hearing shall be conducted. The Director shall prepare a petition specifying the basis as to why the animal is potentially dangerous or dangerous....etc.</u>	I do not support this recommendation.
15.	SMC 9.25.083A Owning vicious dangerous animals prohibited --	A. It is unlawful to own a dangerous animal (other than a licensed guard or attack dog, <u>or as otherwise provided in this Chapter</u>) with knowledge that the animal is dangerous, or with reckless disregard of the fact that the animal is dangerous. <u>Prior to the effective date of any relevant ordinance changes, issuance of a potentially dangerous animal notice alone is insufficient to impute knowledge of dangerousness on the owner.</u>	I do not support this recommendation. The new civil infraction/citation process will address this issue.
16.	SMC 9.25.083 B	B. An animal whose owner is convicted of or pleads guilty to violating this section shall be humanely destroyed. <u>A Level 5 Dangerous animal shall be humanely destroyed.</u>	There will be no tiers.
17.	SMC 9.25.083 C	<u>A Level 4 Dangerous animal may be registered as a "dangerous animal" under the provisions of RCW 16.08.080. Seq.</u>	There will be no tiers. I do not support allowing dangerous dogs to continue to live within the City.
18.	SMC 9.25.083 D	<u>B. A Level 3 Potentially Dangerous animal shall be muzzled and on a leash whenever off of the property of the owner and outside of a secure enclosure.</u>	I do not support tiers.
19.	SMC 9.25.083 E	<u>C. Any owner of an animal exhibiting Level 1 through Level 4 behavior may seek a mediation meeting with a hearing officer, as described in 9.25.038. Such meeting shall be attended by the animal owner and the Director of Animal Control. The purpose of this meeting shall be for the animal owner to seek reduction of classification Level</u>	I do not support tiers.

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20.	SMC 9.25.083 F	<u>F. The Behavior Level of any animal classified as Level 1 through Level 3 shall automatically be reduced one level following each 18- month period in which the animal has not received any additional citations of potentially-dangerous or dangerous. An owner of Level 4 Dangerous animal who has no additional violations related to dangerousness or potentially dangerous, after a thirty-six-month period from the date of designation as dangerous, may apply to the Director to reduce the designation to Potentially Dangerous Level 3....</u>	I do not support tiers.
21.	SMC 9.25.020	<u>Modify definition of “at large” to add “shall not include an animal on another person’s property with that property owner’s permission”.</u>	I support this recommendation.
22.	SMC 9.25.084 C	<u>C. Fail to confine any female cat or dog that is in estrus ("heat") in a secure enclosure so that the female cat or dog cannot come in contact with a male unless the male is admitted by the owner of the female, with the consent of the owners of both the male and female animals;</u>	I support this recommendation.
23.	SMC 9.25.085 D Offenses relating to the sale of animals	<u>It is a violation of this chapter to auction off or raffle companion animals as prizes or gifts.</u>	I not support this recommendation.
24.	SMC 9.25.090 D Detainment and disposal.	<u>D. Notwithstanding any other provision of this chapter, injured or diseased animals, in cases where the owner cannot be located, need not be detained for the holding period, but may be disposed of in a humane manner at any time at the discretion of the Director, following a reasonable attempt to locate the owner of the injured animal. If the owner is identifiable, the Director must contact the owner and give the owner the option of transferring the animal to a veterinarian for immediate treatment.</u>	I support this recommendation. This action is already in practice at SAC.
25.	SMC 9.25.092 A Nuisance animals	Any animal which, by its actions or condition, presents a clear and present threat to the public peace, health, or safety is a nuisance and may be summarily detained pending correction of the condition, <u>pending an expedited procedure to review the necessity of continued detention,</u> or pending the owner's trial, hearing, appeal or other judicial proceedings for violation of this chapter or any other provision of law.	I do not support this recommendation.
26.	SMC 9.25.092 B	If an animal is a threat to public peace, health or safety, but the public is not in imminent danger, in lieu of summarily detaining the animal, the Director (may) <u>shall</u> post a notice to abate a nuisance upon any property wherein an animal is kept in violation of the provisions of this chapter. If no response is made to the notice within twenty-four (24) hours, the animal shall be detained at the City Animal Shelter, <u>subject to the requirements in paragraph A above.</u>	I do not support this recommendation.
27.	SMC 9.25.092 D	<u>The City of Seattle has the burden of proof in establishing that an animal is a nuisance. The standard of proof shall be by clear and convincing evidence. Proper venue is King County Superior Court in Seattle.</u>	At the advice of the Law Dept., I do support this recommendation.
28.	SMC 9.25.100 E Penalty Clause	<u>E. In addition, the court may order the revocation or denial of any guard or attack dog license and any cat or dog license of or to any person convicted of a crime under this chapter for a period not to exceed one (1) year.</u>	I do not support this recommendation.
29.	SMC 9.25.100 F	<u>F. Any person whose guard or attack dog's licensed is revoked, suspended or denied shall surrender all of his or her said guard or attack dogs to the Director to be disposed of in a humane manner.</u>	I support this recommendation.

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30.	SMC 9.25.100 G	G. Any person whose cat or dog license is revoked, suspended, or denied shall surrender all of his or her cats and dogs to the Director.	At the advice of Animal Control, I support this recommendation. Only the animal in question shall be surrendered.
31.	SMC 9.25.110 Denial, suspension or revocation of license - Order	The Director shall deny, suspend, or revoke a license for an animal found to be a "dangerous animal," in any jurisdiction, <u>subject to the exception that allows licensing of a Level 4 Dangerous Dog</u> , and may deny, suspend, or revoke a license for a guard or attack animal under Section 9.25.054 upon determining that the applicant or licensee has violated or failed to comply with any provision of this chapter....etc.	I do not support this recommendation.
32.	SMC 9.25.020-023	<u>(Addition of two new Definitions:)</u> <u>"Attack" – Deliberate, aggressive physical contact initiated by the animal.</u>	At the advice of the Law Dept., I do not support this recommendation.
		<u>"Bite" – An action caused by an animal in which the teeth cause a puncture or laceration, but shall not include solely a bruise or an abrasion.</u>	At the advice of the Law Dept., I do not support this recommendation.
33.	SMC 9.25.023 G	"Severe" injury" means any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery. It also means transmittal of an infectious or contagious disease by an animal.	At the advice of the Health Dept., DEA and Law, I do not support this recommendation. Harmful and potentially fatal zoonotic diseases can be transmitted from animals to humans, including rabies.